

# ACKNOWLEDGE

LEARNING FROM AUDIT, INSPECTION AND RESEARCH

## COMPETITIVE PROCUREMENT





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## SUMMARY

**Procurement is more than just buying goods and services or outsourcing. When used well it is a mechanism to challenge current services and to determine new models for service delivery. In order to achieve these benefits a strong element of competition should run through the whole process. Effective procurement is fundamental to service improvement.**

**Competitive procurement is used patchily by local authorities at the moment.**

- 70 per cent of authorities are having difficulties with competitive procurement
- 17 per cent of authorities are in the top performing category – they have both the capacity and commitment to use procurement effectively
- 80 per cent of procurement strategies are incomplete
- there is a strong relationship between positive attitudes to competitive procurement and service improvement judgements

**There are a number of perceived barriers to effective procurement.**

- those most mentioned are legal complexity, risk aversion, supply side weaknesses, lack of client-side capacity, a narrow approach, and organisational culture
- these barriers are overcome by the top performing authorities and there are pockets of good practice in many authorities

**A systematic approach to competitive procurement can overcome these barriers. The steps in this approach are...**

- laying the foundations – using a strategic approach, having clear procedures, involving the right people and accessing the right skills
- design – this stage is fundamental to service improvement. It involves strategic challenge, understanding the market, scoping the contract and the make or buy decision
- tendering and contracting – this is the implementation stage when good project management and communication are essential
- continuous improvement – once the service is established it is important to maintain the momentum of improvement using rewards and motivation for the provider and a strong client-side function

**It is encouraging that some authorities are using procurement as a tool for improvement, and that there is evidence of good practice. However, many authorities still need to ensure that their approach to procurement makes full use of competition and challenges current services.**

# PREFACE

## WHY HAS THIS PAPER BEEN WRITTEN?

1. The best value regime is now two years old. In its 2001 best value annual statement *Changing Gear*, the Commission described stark differences in how well local authorities were coping with the new requirements (Ref. 1). One-quarter of councils were doing well, finding few problems with the regime; but almost as many were struggling. Only five per cent had all the building blocks in place to deliver best value, while two-thirds were characterised as 'under-performing' or 'coasting'.
2. One of the key features distinguishing effective councils from the less effective was the way they handled issues around competition and procurement. More than one-half of all councils said that they found procurement 'fairly difficult' or 'very difficult'. Less than one-quarter found it easy; and almost thirty per cent of councils' own best value reviews recommended some improvement in procurement practices.
3. Best value has given a new significance to challenging and competitive procurement. This paper describes the role that competition can play throughout the whole procurement process: starting with the fundamental decision, **what services are needed**; through to considering the **best way of delivering services**; and concluding with the decision on **who will provide the service**. Procurement, in this broad sense, is therefore critical to service improvement and much more than just the decision to purchase goods, works or services from a particular supplier.
4. This paper has been written to help local authorities to become more effective at procurement, particularly the procurement of services. At many authorities this is the least developed aspect of procurement: yet it is at the heart of best value. The Commission's AC Knowledge series aims to share the lessons emerging from its inspection, audit and research work, to help authorities to learn from each other's experiences and to inform national policy debates. At the same time, the paper aims to raise awareness of the role that auditors and inspectors play in relation to procurement, and to encourage authorities to engage with their auditors and inspectors early in the procurement process.

## FOR WHOM HAS THIS PAPER BEEN WRITTEN?

5. The paper is aimed at a wide range of decision-makers in local authorities. It should be particularly useful to those involved in fundamental service reviews (sometimes called best value reviews, or BVRs), as well as to line managers of the services under review and executive members and senior officers who are responsible for the design and implementation of corporate procurement strategy. But the importance of procurement within the best value framework is such that the main messages should be grasped by members and officers at all levels.

## THE STRUCTURE OF THIS PAPER

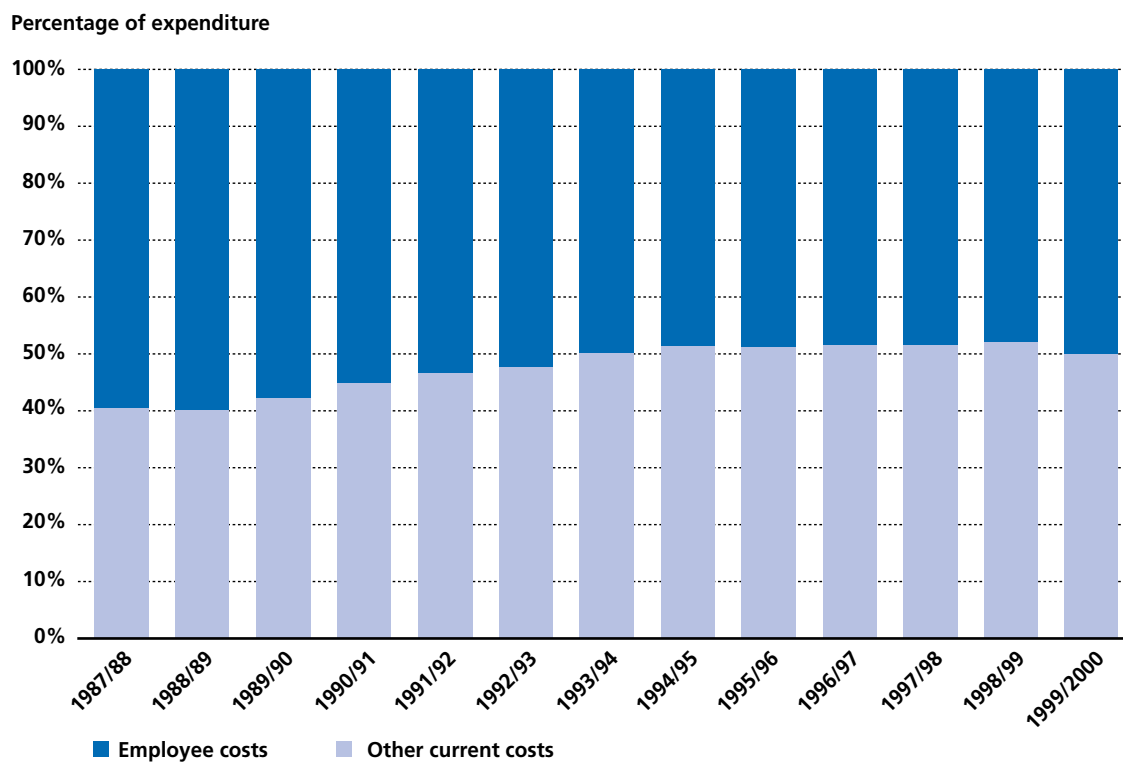
6. The Introduction sets out the background against which procurement is undertaken, including local authorities' experiences of the compulsory competitive tendering (CCT) regime and the expectations created by the move to best value. Following this, there are three sections. Section 1 summarises the current position and categorises the different procurement approaches that different authorities are taking, while Section 2 goes on to describe some of the problems they encounter in improving their procurement practice.
7. Some possible solutions are set out in Section 3. This section outlines the four stages of the procurement process – laying the foundations, procurement design, tendering and contracting, and securing continuous improvement – and identifies the key issues that authorities will need to address at each stage. The changing roles of auditors and inspectors in relation to procurement are also considered, and the main messages of the paper are brought together in a brief conclusion.

## INTRODUCTION

8. Procurement is not about outsourcing for its own sake, but it is significant that outsourcing has increased in recent years. A comparison of employee costs and other non-financial revenue costs shows that more than 50 per cent of current spending by local authorities now goes to external providers of goods, works and services, compared with around 40 per cent in the late 1980s (**EXHIBIT 1**). But this increase in spending on external providers has slowed in recent years.

### EXHIBIT 1 Current expenditure by English local authorities

More than 50 per cent of current spending by local authorities now goes to external providers.



Source: Department for Transport, Local Government and the Regions, Local Government Financial Statistics

9. One of the main factors behind this increase has been the outsourcing of services. From the early 1980s, specified local authority services became subject to compulsory competitive tendering (CCT). Under CCT, authorities were given a choice – either to seek external tenders for specified services, or to undertake ‘market tests’ with external contractors bidding for those services against the in-house provider. Initially, the services subject to CCT were restricted to construction and maintenance work; in 1988 refuse collection, street cleaning, catering and other so-called ‘blue-collar’ services were added; and from 1995, authorities were required to seek external tenders for a number of so-called ‘white-collar’ administrative functions.
10. Research undertaken for the Department of the Environment in the early 1990s concluded that authorities that managed CCT well achieved significant benefits (Ref. 2). These benefits resulted both from outsourcing and from improvements in in-house services. Service standards no lower, and often higher, than those that had been specified prior to CCT were more frequently met, and costs fell by an average of 6.5 per cent.
11. At the same time, Audit Commission studies showed that a few authorities had taken a very positive approach to CCT, seeing it as an opportunity to ensure that high-quality services were provided at the lowest cost (Refs. 3 and 4). These authorities had developed expertise in gathering market intelligence, involving service users, drawing up clear specifications and writing comprehensive contracts that provided flexibility to respond to changing circumstances. The most successful authorities had managed to involve contractors and consumers in contract monitoring and used the whole process as a means of improving services.
12. Elsewhere, however, CCT was seen primarily as a threat to in-house service providers. Energy that could have been used to build up an effective client role was used to position in-house contractor organisations to win contracts. This defensive culture – which persisted even after clarification of the Transfer of Undertaking (Protection of Employment) Regulations 1981 (the TUPE regulations) largely removed the threat of redundancy or worsened conditions of employment – was an obstacle to the development of a strong procurement function. So while some in-house providers are very much more efficient than they were a decade or two ago, many authorities have embarked on best value with limited experience of encouraging real competition and with little corporate procurement expertise. And because CCT was limited to specific services, authorities with a strategic approach to corporate procurement across the full range of services are few and far between.
13. The 1999 Local Government Act abolished CCT and replaced it with a duty of best value. This duty requires each local authority to make arrangements to secure ‘continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.’ The Act, and the statutory guidance that accompanies it (DETR Circular 10/99 in England and NAW Circular 14/2000 in Wales), do not require authorities to subject their functions to competition in the same way as did the previous legislation on CCT (Refs. 5 and 6). But the statutory guidance does stress the Government’s view that fair and open competition will usually be the best way of demonstrating that a function is being carried out competitively.

14. The English guidance places strong emphasis on procurement. Every authority should have 'a considered and far-reaching approach to the procurement of services'. The Welsh guidance is less prescriptive, but the review of procurement across the Welsh public sector (*Better Value Wales*) does recommend that all public sector organisations develop a procurement strategy (Ref. 7). Both the English and Welsh statutory guidance goes on to encourage authorities to look for opportunities for innovation and genuine partnership with others in the public, private and voluntary sectors. The Government's and the National Assembly's aim is to encourage variety in the way that services are delivered. No single supplier should dominate either local or national service markets.
15. The requirements of the statutory guidance have been supplemented by the recommendations of two major reviews, which between them have set the procurement agenda in England and Wales. *Better Value Wales* was published in February 2001, and *Delivering Better Service for Citizens: A Review of Local Government Procurement in England* (the Byatt report) four months later (Refs. 7 and 8). Both stress the importance of local authorities (and, in the case of *Better Value Wales*, other public bodies) adopting a broad definition of procurement, encompassing the whole process of acquisition, from the initial assessment of a business need, through to the end of the useful life of an asset or the end of a service contract. The Byatt report also makes clear that the decision on whether a service is provided in-house or by a third party falls within the scope of the procurement process.

## 1. THE CURRENT PICTURE

16. Inspection reports and auditors' reviews of authorities' best value performance plans (BVPPs), provide a good starting point for a comparison of procurement practice. Variations in the pattern of procurement across authorities can best be understood by comparing the results of service reviews and some of the key procurement processes that led to those results. The key processes analysed for this purpose were:
- developing and implementing a procurement strategy;
  - market consultation and analysis;
  - option appraisal; and
  - preparing an action plan for continuous improvement.

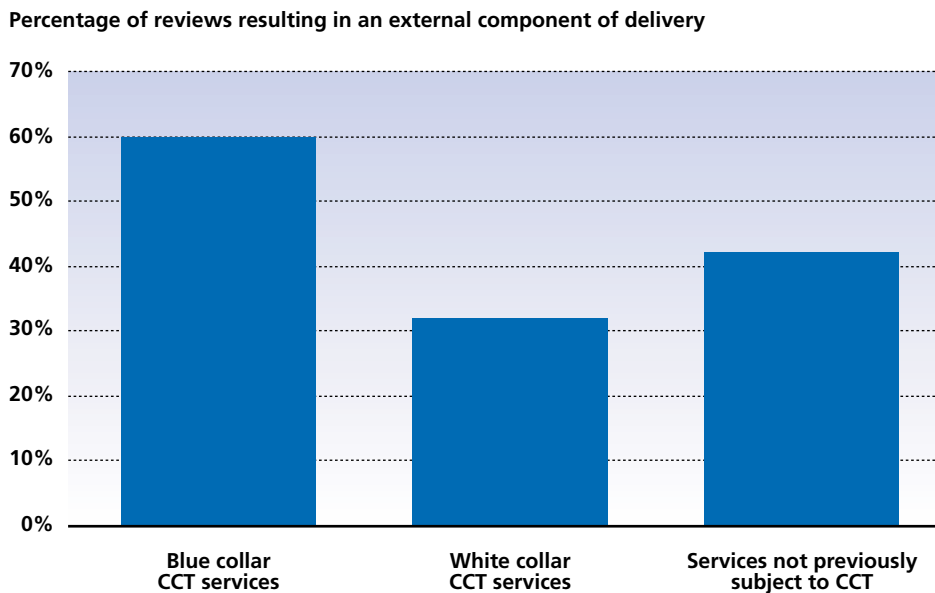
This analysis enables councils to be categorised according to their willingness and capacity to embrace competitive procurement.

### THE RESULTS OF BEST VALUE REVIEWS

17. Good procurement practice does not always result in outsourcing, and the fact that a service has been outsourced is not in itself evidence of good practice. It is, however, apparent that where the services reviewed were among those formerly within the scope of CCT, reviews of blue-collar manual services were almost twice as likely to result in a decision to outsource as those of white-collar administrative services (**EXHIBIT 2, overleaf**). This suggests that authorities continue to have more difficulty with the procurement of white-collar services, which are more difficult to specify and for which, in some areas, the market is less developed. It may also reflect the status of the professions that provide the white-collar services. For services that were never subject to CCT, the picture is more mixed. For many of these services there are no immediately obvious alternative suppliers, but some authorities – not all of them large authorities – are managing to find new partnerships or delivery arrangements for at least some aspects of the service.
18. Another feature is that for those services with a history of a mixed economy of supply, there is evidence of a slow but steady increase in the contribution of external providers. This appears to be a result of more councils adopting a mixed economy and, for those that already operate in this way, of a change in the proportion of work entrusted to external suppliers as partners become more comfortable with each other's ways of working.

## EXHIBIT 2 Service reviews that have resulted in an external component of delivery

Reviews of blue-collar manual services were almost twice as likely to result in outsourcing as those of white-collar administrative services.



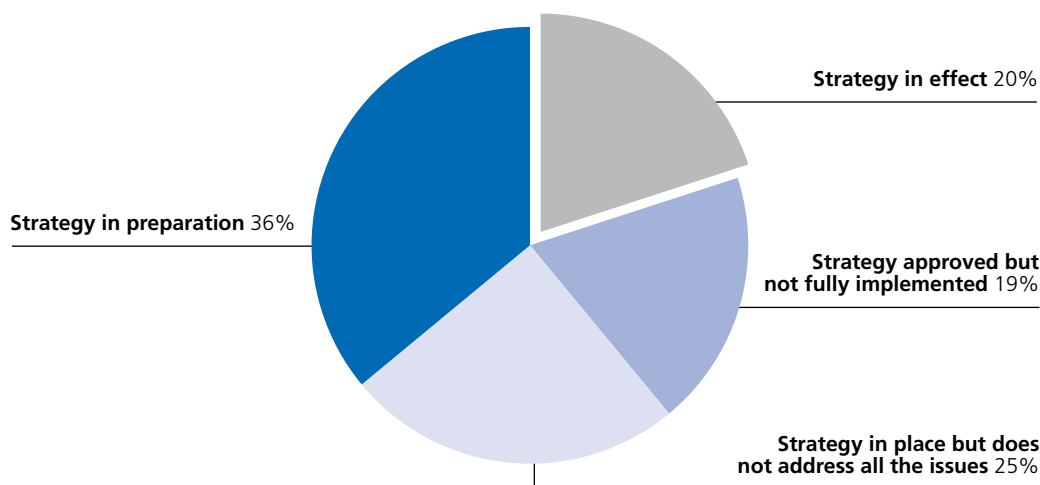
Source: Audit Commission Inspection Service

## PROCUREMENT STRATEGIES

19. The research undertaken by the Department of the Environment, Transport and the Regions (DETR) and the Local Government Association (LGA) to support the work of the DETR/LGA Procurement Task Force chaired by Sir Ian Byatt found that, by September 2000, 27 per cent of English authorities had a written procurement strategy in place while 50 per cent were on their way to producing a strategy (Ref. 9). The Byatt report, which was the principal output of the Task Force, recommended that every authority should have a formal, documented procurement strategy (Ref. 8). Similarly, in Wales the *Better Value Wales* report has led most authorities to begin developing procurement strategies (Ref. 7).
20. Of the authorities surveyed for this review, nearly 40 per cent had procurement strategies in place. But many of the strategies were incomplete, untested or deficient in one or more key areas, and few were thought likely to be used to their full potential. A common weakness was a tendency to describe the procurement process rather than take a strategic overview of the role of procurement. And only around one-quarter of councils had specific arrangements in place to enhance their procurement skills and their ability to make the best use of competition.
21. While there were wide variations between authorities, the overall picture was similar to that presented by auditors' reviews of 2001/02 BVPPs. These showed that 80 per cent of procurement strategies were deficient in some way, because they had not been finalised, had not yet been implemented, or did not address all the relevant issues (EXHIBIT 3).

### EXHIBIT 3 Auditors' assessments of procurement strategies

Eighty per cent of procurement strategies were deficient in some way.



Source: Audit Commission Inspection Service

22. Where auditors raised specific issues, the most common perceived shortcoming of procurement strategies was the failure to address the need for challenge or (more frequently) competition when reviewing services. Other significant omissions were in the areas of market analysis and option appraisal, where auditors pointed to a lack of clear guidance in some procurement strategies. And more than 40 authorities had not even begun to prepare a strategy.

## MARKET CONSULTATION AND ANALYSIS

23. The Government's clear intention in the 1999 Act and subsequent guidance was that authorities should be open-minded about who provides services, and that they should therefore analyse the markets for services, including in their discussions potential suppliers from all sectors. This market analysis can also provide new ideas for alternative service design. Where the market is weak, authorities are encouraged to see if they can develop the market and help new entrants. This may be especially necessary if small and medium enterprises (SMEs), social enterprises and voluntary sector bodies are to be encouraged to bid for contracts.
24. Nearly one-half of the authorities surveyed did consult potential suppliers in some way, and inspectors report that most authorities conduct some form of market analysis. But the scope is limited, and is normally confined to communication by telephone or letter or advertising in the trade press. Relatively few authorities go so far as to organise open days or workshops. And fewer still take steps to develop the market or actively seek out alternative or innovative arrangements.

*'The review could have been improved if the Council had examined whether others, or partners, could have provided the same service – the council is unaware of whether others could provide the service at a reduced cost and at the same, or better, quality'*

Inspection report

## OPTION APPRAISAL

25. Most authorities undertook some form of option appraisal, weighing up the advantages and disadvantages of different service models, and of making or buying the service in question. In consequence, best value reviews had resulted, in 40 per cent of cases, in some external participation in service provision. This participation ranged from call-off contracts to top up in-house services at times of peak demand, through to major strategic partnerships for combinations of services. But, inevitably, option appraisal cannot be comprehensive if the market analysis has not identified all of the possible options.

*'The best value review has explored which provider is best placed to provide the service in the most economic, efficient and effective manner. It concluded that the market was weak and external providers were unlikely to be interested in managing the service, and improving the in-house service was the best way forward.'*

*The review presents little evidence of the steps the Council took in testing the market for the service. Although the Council has a positive and pragmatic approach to outsourcing services, it has not done anything further to test the potential market for this service, either on its own or as part of a wider externalisation.'*

**Inspection report**

## ACTION/IMPROVEMENT PLANS

26. Action plans varied in quality. Many did include some measure of continuous improvement and on-going user consultation. Few, however, included specific incentives for suppliers to raise standards. Procurement practices that tended to work against continuous improvement included over-rigid contracts and quality assurance arrangements that relied too heavily on client-side monitoring and the threat of penalties. There was also evidence that some authorities were at risk of developing a culture of procrastination – putting improvements on hold until the next contract period.

## PATTERNS ACROSS DIFFERENT TYPES OF COUNCILS

27. Few English district councils have well-developed procurement strategies. They are also less effective at applying procurement strategies in the context of best value reviews, and at market consultation and analysis. Districts have conducted a slightly higher number of option appraisals, but these have resulted in fewer external supply arrangements than other types of authority.
28. Perhaps most surprising is the finding that only 15 per cent of the authorities surveyed had considered collaborative purchasing. There is, however, some evidence that districts are beginning to pursue such arrangements more actively, often in association with other initiatives such as Public Service Agreements and Local Strategic Partnerships.

29. Among Welsh authorities, none of those surveyed had a procurement strategy in place (auditors had reported that seven Welsh authorities had prepared procurement strategies, but that in only two cases had these been implemented). This may, in part, be due to the lack of guidance in this area, prior to the publication of *Better Value Wales*, and all but a handful of authorities are now developing a strategy. One-third of Welsh councils undertook market consultation, but, as in England, few had taken steps to develop the potential market. Welsh councils were, however, more likely than their English counterparts to be pursuing collaborative purchasing arrangements.

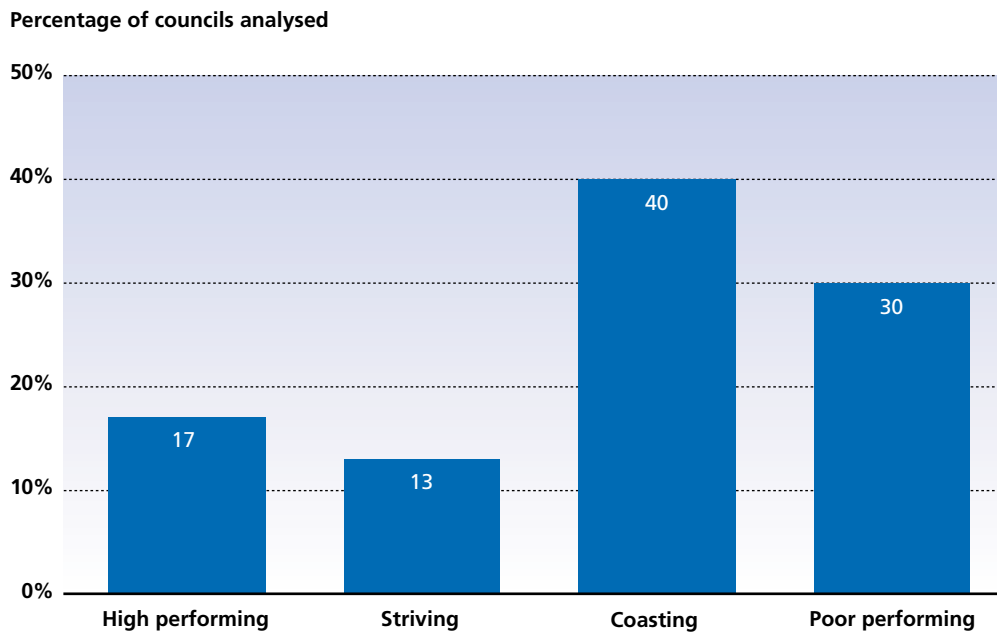
## OVERALL ATTITUDES TO COMPETITION

30. Overall, councils can be placed in four categories according to their enthusiasm and capacity to make use of competition. The categories are the same as those used in *Changing Gear* and have been proposed as the basis for authority classifications in the recent White Paper *Strong Local Leadership – Quality Public Services* (these classifications will not be used in Wales) (Refs. 1 and 10). They are used in this report, however, solely to describe authorities' attitudes to competitive procurement.
- **High performing** – a small but significant group of councils demonstrated not only enthusiasm to use competition to drive improvement and innovation, but also the internal capacity to do this effectively.
  - **Striving** – this second group were enthusiastic to embrace competition but lacked some of the skills to analyse markets and lead and project manage procurement processes.
  - **Coasting** – in this largest group of councils, enthusiasm was low: one-quarter of the councils in this group had the capacity in one or more service areas that might provide the basis for a more robust corporate approach, but the council as a whole had done little to develop these skills.
  - **Poor performing** – around one-quarter of the councils surveyed showed no real enthusiasm for competition, were seen as lacking the basic competencies to manage the associated processes and, not surprisingly, tended to retain services in-house following review.

**EXHIBIT 4 (overleaf)** shows the relative sizes of these four categories, and **TABLE 1 (overleaf)** describes each category in more detail. It is notable that 70 per cent of councils appear to lack commitment to competitive procurement, even though some of them may have the capacity to perform better.

**EXHIBIT 4 Councils' enthusiasm and capacity for competitive procurement (measured by inspector judgements)**

Seventy per cent of councils lack commitment.



Source: Audit Commission Inspection Service

31. As one might expect, the authorities with the most developed approaches – high performing – had generally received high star ratings from inspectors for quality of service. In the other three categories the picture was more mixed. Striving, coasting, and poor performing councils included some with very good services and others whose services were poor. This reflects the variability of procurement practices within authorities and the fact that different services have been subject to different legislative frameworks, such as CCT.

**TABLE 1** The features of councils in the four categories

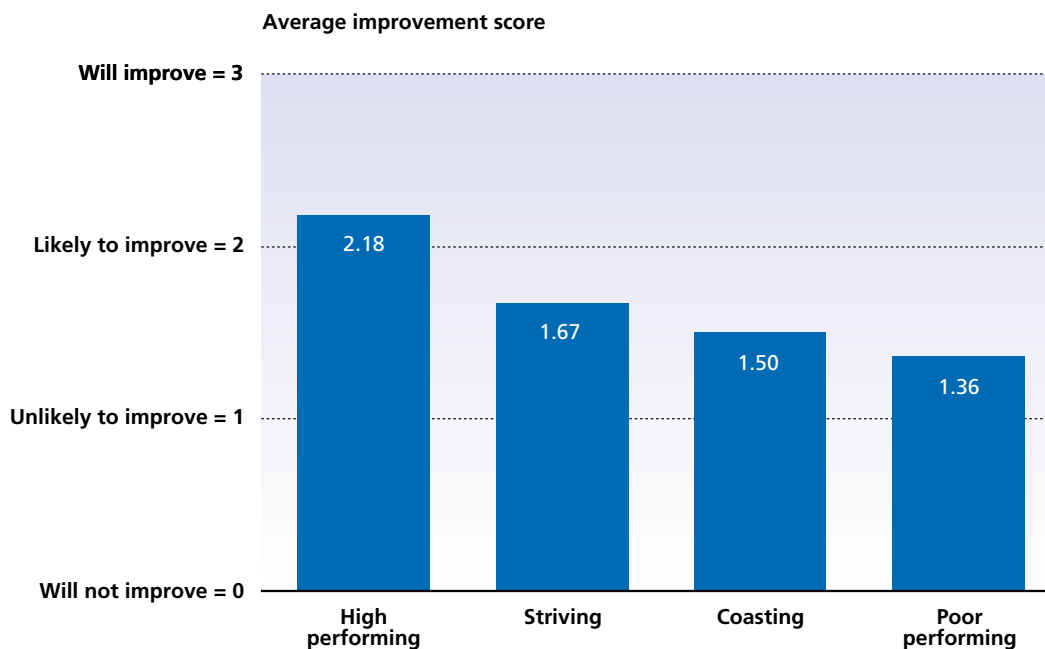
	High performing	Striving	Coasting	Poor performing
<b>Procurement strategy</b>	Not all have a corporate procurement strategy in place, but, where they do, they are more likely than others to make effective use of it.	Some have a procurement strategy in place, but few are implementing it fully; many strategies omit key aspects of procurement.	Procurement strategy is likely to be undeveloped or in need of major revision.	Largely absent. Not used where they do exist.
<b>Procurement skills</b>	Most likely to be developing internal procurement skills through training, working parties, etc, and seeking outside consultancy support.	Less likely to have the necessary procurement skills or to be training staff in them.	Some councils include pockets of skills, but where these exist they are not used across the organisation.	Least likely to try to build their procurement skills.
<b>Market consultation and analysis</b>	Full market analysis using a mix of techniques and two-way dialogue with potential suppliers.	Some market consultation, but more limited in scope – generally telephone calls and letters.	Limited market analysis.	Least likely to undertake market consultation.
<b>Option appraisal</b>	Robust and comprehensive – over 70 per cent resulted in outsourcing.	Less robust, but still wide-ranging – mixture of in-house and external solutions.	Often perfunctory – in-house provision most likely outcome of reviews, but some other solutions.	Either non-existent or partial, and almost invariably resulted in maintenance of the in-house service.
<b>Improvement plans</b>	Strong project management and build in incentives for improvement.	Partially address commitment, resource, project management and skills issues required for good improvement plan.	Few councils had started to develop ongoing user consultation or service improvement processes.	Least likely to include measures to secure continuous improvement.

Source: Audit Commission Inspection Service

- 32. On the other hand, inspectors’ judgements on the likelihood of service improvement were clearly related to willingness and capacity to make use of competition. The greater an authority’s enthusiasm and capacity for securing competitive services, the higher the probability that its services would be judged ‘likely to improve’ (EXHIBIT 5).
- 33. It is clear that there are wide variations in the extent to which authorities have embraced competitive procurement. And in some authorities different approaches have been taken for different services. It must, therefore, be worth considering why these variations exist, and what factors are preventing all authorities from reaching the standards that are set by the high performers.

**EXHIBIT 5 Procurement and the likelihood of improvement**

The greater an authority’s enthusiasm and capacity for competitive procurement, the higher the probability that its services would be judged ‘likely to improve’.



Source: Audit Commission Inspection Service

## 2. BARRIERS TO COMPETITIVE PROCUREMENT

34. Auditors and inspectors cite six main reasons for ineffective procurement. These are challenges that must be overcome if authorities are to meet the duty of best value – and that authorities with the necessary skills and commitment can, and do, overcome. They are:
- legal complexity;
  - risk aversion;
  - perceived supply market weaknesses;
  - lack of client-side capacity;
  - narrow approach; and
  - organisational culture.

### LEGAL COMPLEXITY

35. One difficulty for many authorities is the legal complexity of outsourcing. Keeping services in-house is legally straightforward, and many authorities choose not to take up opportunities for service improvement rather than consider complicated and apparently risky alternatives. In recent years, the statutory framework governing procurement has become increasingly complex. The European Union (EU)'s public procurement regime, which has been applicable to local authority purchases of works and services since 1993, has had considerable impact, particularly on larger procurements. But considerable expertise is required to put the EU directives into practice. Although steps have been taken to resolve potential conflicts with UK legislation, there are still some grey areas, and further development of the regime is currently under consideration.
36. In domestic legislation, the Local Government Act 1999 abolished CCT. Nevertheless, much of the earlier legislation is still in force and needs to be taken into account. As with the EU regime, some aspects of the UK legislative framework are open to a variety of interpretations. And, while the Act gave the government power to remove legal barriers that get in the way of best value, final decisions on how these powers will be used have yet to be made. There are also some outstanding uncertainties about the application of TUPE.

### RISK AVERSION

37. Even where the legal framework is clear and well understood, some authorities seem to be notably risk averse. While (quite properly) conscious that they are custodians of public finances, their approach to risk is to try to avoid it rather than to identify and manage it. As a result, they do not explore the full range of supply options. In some authorities, this attitude is reinforced by direct experience of outsourcings that have failed to deliver the outcomes expected. For others, perceptions of risk can be heightened when an outsourced service in another authority runs into difficulties.

*‘Although [councillors] are willing to consider competition, they would not consider it in all areas – for example, they would not consider it in the area of housing benefits because of the high profile failures of outsourced benefits services, particularly in London.’*

**London Borough Service Manager**

38. Other authorities consider some elements of their strategic core to be too critical to the organisation to be put into the hands of others. Legal services and human resources were frequently cited as functions ‘too strategic to put out’. Despite this, some authorities have been successful in outsourcing legal services, and substantial parts of the human resources function are also potentially open to competition.
39. Some authorities are also reluctant to consider outsourcing their ‘quasi-judicial’ functions, such as planning and building control. Some councillors – as well as some members of the public and even, to a certain extent, potential suppliers – appear to be more comfortable if the council retains these functions in-house. However, there has been a commercial market for building control functions for a number of years and there appears to be an emerging market, albeit small, for other regulatory functions. There is no reason why, with the right oversight and controls in place, these markets should not develop further and offer opportunities for authorities.

## A RESTRICTED SUPPLY MARKET

40. For some services, authorities appear to have difficulty finding alternative delivery options because of weaknesses in the supply market. There may not be a supplier of the service required in the relevant part of the country, or at least not at a competitive price. Rural councils covered by the Commission’s survey tended to see geographical remoteness as a barrier, and some described instances in which they had explored service delivery partnerships with others but been unsuccessful in attracting interest. In one case, the supplier base was perceived as very limited and seemed to show more interest in the nearby urban areas where opportunities were potentially more lucrative. Another authority in an urban area had explored partnership or outsourcing arrangements with the town’s law firms, but the costs could not be brought close to those of the in-house operation.
41. For districts, the size of contracts available is at least as important a constraint as geography, particularly in markets that are restricted or complex. As large authorities increasingly enter into partnership arrangements for the delivery of support services, the choice of partners available to smaller authorities can become even more limited.

## LACK OF CLIENT-SIDE CAPACITY

42. Often, however, an apparent lack of suppliers is, at least in part, attributable to weaknesses in the authority’s own approach, and, in particular, the failure to develop and resource an adequate client side. Contractors have cited a number of blockages that make them less likely to pursue potential opportunities. These include:
  - ineffective management of competition within the authority, including fragmentation of skills and experience;

- lack of clarity about objectives, or the resources available to meet them;
  - non-existent or underdeveloped procurement strategies that do not give councillors and officers a usable framework for undertaking option appraisals;
  - inflexible standing orders and/or financial regulations; and
  - unrealistic expectations about prospects for the immediate improvement of poorly performing services.
43. Internal capacity to make the best use of competition is clearly a problem in the majority of councils. This lack of appropriate skills and infrastructure was identified in the Byatt report (Ref. 8). There are a few authorities, however, that have provided training for staff who are involved in procurement and that have made effective use of specialist external advice. Others have applied competition successfully despite an apparent lack of infrastructure and formal training.

*'We don't have a central procurement function, so we just got on with it, learning as we went along and getting as much advice as we could from other councils.'*

**District council Housing Manager**

44. One indicator of a weak client side is a demand for 'savings up front' and quick service improvement, in order for the officers concerned to be able to 'sell the deal internally.' Contractors are naturally wary of such demands, which sometimes mask services that have deep-rooted problems and require significant investment, and generally indicate the absence of proper procurement processes.

## NARROW APPROACH

45. There is another group of authorities that have processes in place, but fail to make use of those processes to think imaginatively about procurement. These authorities see the four 'C's of best value (challenge, compare, consult and compete) as a set of consecutive steps to be followed, rather than as tools to help them fundamentally review the service. This 'ticking the boxes' approach can sometimes lead to critical elements of the review being deferred. It may also have a disproportionate impact on smaller potential suppliers, including SMEs, social enterprises and voluntary organisations.

*'Initial testing of the market indicated little interest from the commercial sector in a local taxation service for an authority [of this size] without consideration of packaging of the service with services such as housing benefits or information technology, or through joint commissioning with other neighbouring authorities. As housing benefits and information technology are being reviewed as separate services later in the five year review programme, longer-term options for the delivery of the service are yet to be developed.'*

**District council inspection report**

46. In the light of the findings set out in *Changing Gear* and other reports, it is not surprising that authorities that succeed in applying competition do so by aligning the outcomes they require with the principles of best value, rather than by focusing unduly on process. Some have found that they attract more interest in services for which there are a less developed markets if they are innovative in the packaging of services. But, to date, only a minority seem capable of this approach.

## ORGANISATIONAL CULTURE

47. The largest and most frequently-encountered barrier to competitive procurement, however, is the persistence of a culture that is rooted in the CCT regime. This can be evident in an adversarial approach to managing contracts; in a lack of fairness when there is the possibility of an in-house bid; in a readiness to accept superficial demonstrations of competitiveness; or in the absence of a strategic framework (as opposed to one that is based solely on compliance with legislation) within which officers can select the most appropriate service design and means of procurement in each case.

*'We are unclear how competitive the catering service is currently. The last time a formal competitive test was carried out was in 1991 under the compulsory competitive tendering legislation. The service argues that delegation of school catering budgets through 'fact finding' is a more recent test of competitiveness. However, only one school has formally tested the market (and this school decided to enter into a contract with a private sector supplier).'*

### Inspection report

48. In these authorities, it is clear that the procurement culture needs to change. This will only happen if authorities have put in place the building blocks for best value that were identified in *Changing Gear*. These are:
- ownership of problems and willingness to change;
  - a sustained focus on what matters;
  - the capacity and systems to deliver performance and improvement; and
  - integration of best value into day-to-day management.
49. The remainder of this paper looks at the actions that authorities can take to overcome the barriers to competitive procurement. Auditors' and inspectors' reports, and the work undertaken by the DTLR/LGA Procurement Task Force and others, all point to ways in which the barriers can be overcome and good procurement practice established. But this requires an understanding of the procurement process and a systematic approach to putting it into effect. Section 3 therefore sets out the key stages of the process and provides guidance on implementation.

### 3. THE WAY FORWARD

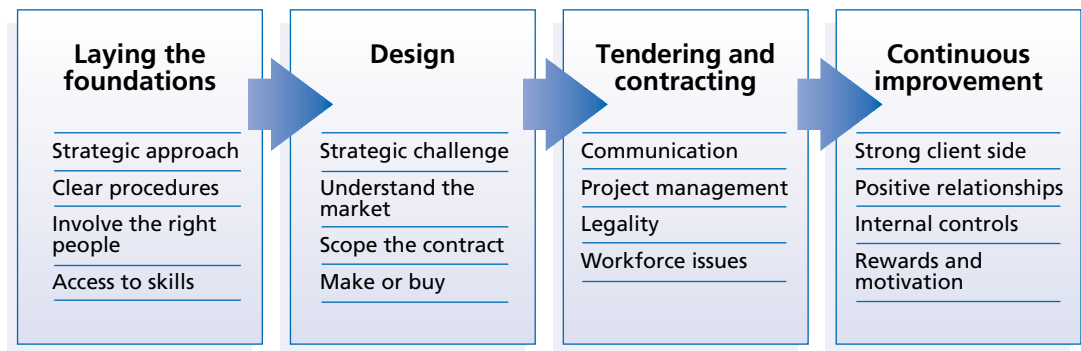
50. The recommendations in this Section consolidate the good practice identified in the work of auditors and inspectors, and in the other literature on procurement and competition set out in the References and Further Reading sections of this report. They are based on the broad model of procurement identified in paragraph 3. The key questions in this model of procurement are:
- What services are needed?
  - What is the best way of delivering those services?
  - Who will provide the service?

This model also uses competition at each stage to challenge the existing pattern of service.

51. To understand what action is required it is helpful to break the procurement process down into stages:
- laying the foundations;
  - procurement design;
  - tendering and contracting; and
  - securing continuous improvement (**EXHIBIT 6**).

This Section examines each of these stages in turn, and concludes by looking at the ways in which auditors and inspectors can help at each stage.

**EXHIBIT 6 The four stages of the procurement process**



Source: Audit Commission

## LAYING THE FOUNDATIONS

52. For an authority to manage procurement successfully, four elements must be in place:
- a strategic approach to procurement at corporate level;
  - clear operational procedures that are understood throughout the organisation;
  - appropriate involvement of officers and elected members; and
  - access to specialist expertise.

### A STRATEGIC APPROACH

53. All best value authorities in England are required by statutory guidance to have ‘a considered and far-reaching approach to the commissioning and procurement of services’ (Ref. 5). This includes having a clear procurement strategy. The Byatt report set out some of the contents of a successful procurement strategy (BOX 1) (Ref. 8).
54. Authorities have made some progress with the production of procurement strategies. But the analysis of BVPP audits and inspection reports suggests that, while many authorities have a procurement strategy document, far fewer have the strategic approach to procurement that the statutory guidance requires. In the Commission’s view, a strategic approach is one that:
- positions procurement at the centre of the council’s efforts to deliver best value;
  - assigns procurement responsibilities appropriately, according to the strategic importance of the goods or services being procured;
  - provides guidelines that are clear, but sufficiently flexible to be applied in a wide variety of circumstances; and
  - is comprehensive – covers all goods and services, not just those subject to contracts that are due for review.

#### BOX 1 The recommended contents of a procurement strategy

- General procurement principles and methods.
- Updated information on the procurement activities of the council.
- The strategic aims of the authority and their relevance to procurement activities.
- An analysis of key goods and services and their costs.
- Information on how goods and services are purchased.
- Details of current contracts with renewal/replacement dates.
- Recent and planned best value reviews.
- Future procurement exercises anticipated by the authority.
- The performance of key suppliers.
- The structure and performance of the procurement function.
- Skills and training needs.
- Issues of probity and good governance.

Source: Byatt report (Ref. 8)

55. This strategic approach should be applied both where procurement is being considered in the context of a fundamental service review and where procurement decisions have to be taken on an ad hoc basis. In either case, it needs to be supported by other corporate policies and systems, including service and financial planning systems that direct activity and resources towards corporate priorities, a performance management system that is focused on outcomes rather than processes and a coherent approach to the management of risk. Planning and risk management issues are covered in more detail in two recent Commission publications, *Planning to Succeed* and *Worth the Risk* (Refs. 11 and 12).

## CLEAR OPERATIONAL PROCEDURES

56. A strategic approach to procurement for the whole organisation must be expressed in the form of procedures that are well understood by everyone involved in procurement decisions. This approach needs to operate at at least three levels:
- a high level statement of policy and strategy;
  - detailed guidance on the approach to be taken to procurement design, including guidance on the conduct of fundamental reviews; and
  - standing orders regulating the tendering and contracting processes.
57. It is important that these procedures are kept up to date, as procurement practice is developing rapidly. They also need to be communicated throughout the organisation. Auditors will look for evidence that operational procedures have (recently) been reviewed, and that they are being consistently applied.

## APPROPRIATE INVOLVEMENT

58. Procurement will not be effective unless the right people at the right level are involved. That means that strategic procurement decisions must be clearly identified, and members and senior officers must own them. This is not just a matter of setting the procurement strategy and approving the procedures to be followed. Top-level involvement is also essential at the design stage of major procurements. For very big contracts, councillors and top management must be sure that the solution adopted is the right one. Beyond this, it is also important that the service workforce and their representatives are involved in the process. This ensures that all the expertise of the service provider is used.
59. In many cases members (and some senior officers) will need to develop their understanding of the markets in which the authority is operating. This has not traditionally been a member role, and some further training will be necessary, both for members with executive responsibilities and for those who will be scrutinising procurement decisions (without the latter becoming so involved in the details of procurement that they lose sight of their challenge and scrutiny role).
60. There is also a need to assign responsibility for procurement at senior officer level. Some large authorities have charged an individual member of the top management team (who may not necessarily be a procurement specialist) with raising awareness of procurement issues, both in corporate decision-making and throughout the organisation. Where this is not possible, or where it would be inappropriate, the management team must ensure that steps are taken to secure staff commitment and to encourage staff participation in the design of services. The early involvement of staff and trades unions will often be critical to procurement success.

## ACCESS TO SPECIALIST SKILLS

61. Before an authority can begin to approach the design of a procurement, it needs access to the relevant specialist skills. The Commission's recent management paper on procurement under the private finance initiative (PFI) identified a range of skills that an effective client side requires (Ref. 13). While these requirements refer to the specific circumstances of a PFI scheme, the skills identified underpin all procurement (BOX 2).
62. Not everyone involved in procurement can be expected to have the full range of expertise that is now required. The market place is increasingly diverse and increasingly global, and the legislative framework complex. Every authority needs, therefore, to develop its in-house skills, particularly creativity and innovation, and to learn to recognise where specialist support is required. In large authorities, support is most likely to be provided by a corporate procurement unit; the challenge is to manage that unit and to ensure that the skills base remains relevant. Smaller authorities may have to buy in the necessary skills or share resources with other organisations – although often an imaginative use of in-house resources can provide a better solution to the authority's needs at a much lower cost. Where expertise is bought in, it is vital that costs be properly controlled. CASE STUDY 1 shows an example of a small authority that has taken positive action to increase its pool of procurement skills.

### BOX 2 Required skills for an effective client side

Purchasers should ask themselves whether they have:

- strategic thinkers who are able to see the potential improvement in a service area;
- a project manager with the skills, drive and commitment to convert that strategic vision into a practical scheme;
- financial expertise to establish the business case and to understand the costs of each of the components within the proposed scheme;
- legal support to deal with the details of the contract documentation;
- skilled negotiators who are competent to bring the scheme to a satisfactory conclusion; and
- contract managers to check that once the scheme is operational, it delivers services as intended.

Source: *Building for the Future* (Ref. 13)

## CASE STUDY 1 Capacity Building

Tynedale District Council has ensured that its best value review teams get the advice, support and training that they need to negotiate the complex issues around applying competition, through the establishment of a Procurement Support Group.

This Group ensures that procurement options are delivered to the standards required by the Council by considering the legal, financial and personnel implications of proposed options and any arrangements that need to be put in place before the recommended option can be pursued. It also reviews progress against implementation timetables and evaluates submissions received as part of a procurement process.

The Council promotes the view that services must prove that they are competitive or they will be subject to market testing. After assessing each of the services, using the Chartered Institute of Public Finance and Accountancy (CIPFA) competition model, and consideration of the recommendations of the Procurement Support Group, a range of actions were agreed.

*Source: Audit Commission Inspection Service and officer interview*

## CHECKLIST 1 Laying the foundations

- Is there evidence of a strategic approach to procurement throughout the council?
- Is there an up-to-date procurement strategy that covers all the council's services?
- Are there well-understood procedures for procurement design and for tendering and contracting?
- Do members have, or have arrangements been made for them to acquire, the skills to take a lead on the strategic aspects of procurement?
- Has specific responsibility for procurement issues been assigned at management team level?
- Does the council have access to the right level of specialist procurement expertise?

## DESIGN

- 63.** Once the foundations are in place, attention must be paid to service and procurement design. This is a critical phase of the procurement process, as all the four Cs of best value need to be considered. For that reason, a fundamental service review, which, of its nature, requires attention to be given to all four Cs, is a particularly appropriate vehicle for service design. Not all procurement decisions, however, fit neatly into the programme of service reviews. In these cases, the approach must be adapted to the circumstances, following the same basic principles. The design phase is the key period when fundamental questions about the authority's aims should be asked, and when options that could transform services can be developed.
- 64.** The design phase can itself be divided into four stages:
- strategic challenge;
  - understanding the market;
  - setting the broad terms of the contract; and
  - choosing between internal and external provision.

Each of these stages is now considered in turn.

## STRATEGIC CHALLENGE

65. The first step in design is to decide exactly what the authority wants to procure. This might seem obvious, but many service reviews undertaken in the first year of best value failed to address, or took for granted, what outcomes the authority was seeking. This is the time to take a 'blank sheet' approach to the services needed in the future, before the details of the current service and its performance are considered in detail.
66. This process needs to be informed by a full understanding of the authority's aims and external environment. Authorities should ask themselves:
- What are the current and future needs of local service users?
  - How do other authorities and providers meet those needs?
  - What is the purpose of the service we are trying to create?
  - How could the service contribute fully to our strategic aims?

An open and challenging approach at this stage helps subsequent stages of the procurement process to remain stretching and focused on improvement.

67. This is also the stage at which to challenge the organisation's cultural assumptions about competition and service design. It is important to take account now of outcomes that are genuinely of strategic importance to the authority, so as to ensure that the outcomes sought from the procurement are fully consistent with the authority's broader aims and objectives. These may include environmental and social concerns, so long as these are not handled in a way that discriminates against potential suppliers or invested with disproportionate importance. **CASE STUDY 2** shows how one authority has taken a broad view of how a service is defined.
68. Careful attention to defining the product at the outset will greatly reduce the difficulties that may be encountered later on in the procurement process. Not the least of these is the danger of the tendering and contracting process falling foul of EU directives. The EU procurement regime allows considerable freedom at the design stage, when the subject matter of a possible contract is being drawn up: in defining the services to be included in a possible contract, authorities are bound only by treaty requirements and general legal principles. Once the subject matter has been decided, however, the whole procurement process becomes subject to the detailed directives, and authorities are effectively precluded from considering any issues that are not directly relevant to the contractor's ability to deliver the stated outcomes.

### CASE STUDY 2 Defining a service in partnership

As part of the best value review of Poole Arts Service, the council reviewed its relationships with Poole Arts Centre and the Bournemouth Orchestra. They met the requirement to examine competition under the best value guidance by taking steps to develop more effective partnership arrangements with these bodies through more open dialogue. Under the new Service Level Agreement with the orchestra the council was much more explicit in stating its expectations. Targets were set for audience numbers in general and, in particular, for the number of visits by disadvantaged people. Agreement was also reached on education and audience development work in terms of numbers of days to be set aside for this purpose.

*Source: Audit Commission Inspection Service and officer interview*

69. While it is important to be clear about the full range of desired outcomes, this is not the stage to be unduly prescriptive about the precise outputs that are required from the procurement, or to try to define how the outcomes will be achieved. The authority can only address these issues when it has a clearer picture of what internal and external suppliers have to offer. Equally, uncertainty about the product required should not be an excuse for excessively delaying procurement activity. In some reviews, authorities have parked rather too much of the process into a relatively distant section of the improvement plan, rather than getting on with it. This may be justified if there are specific improvements that need to be made to a service before a competitive process might deliver best value, but in the absence of these specific circumstances, authorities should not drag their feet.

## UNDERSTANDING THE MARKET

70. Having defined the product to be procured, the authority needs to look more carefully at what is available in the market. It may already have an idea of the sort of services that will deliver what is needed, but it needs to keep an open mind, as the specification may well change in the light of market analysis – particularly where the service is complex. This process may need to go through a number of iterations, as outputs are redefined to ensure the best fit between the authority's procurement goals and the possible ways of achieving them.
71. This is where consultation with potential suppliers is particularly important. Desk research will give some impression of what can be delivered by whom, but in almost all cases this must be supplemented with direct contact. The suppliers consulted may be in-house or they may work elsewhere in the public, voluntary or private sector, or in social enterprises. The authority needs to understand not only the differences between the different products on offer, but also the expectations and aspirations of its prospective suppliers. These are particularly important where the contract is long term or where the desired outcomes cannot be precisely defined at the outset.

*'We have had exploratory discussions with the information and communications technology (ICT) market with a view to developing an innovative solution for ICT. We are looking at a long-term arrangement involving various options, such as a joint venture, but have no preconceived ideas about the most appropriate delivery vehicle and are anticipating that the procurement process itself will articulate the pros and cons of the various models/options... As a starting point we began informally consulting the ICT market and made it clear to suppliers that these discussions were only exploratory and 'without prejudice'. We selected four companies, each with a different perspective, and spoke to each of them. We found that the commercial sector did not exploit these discussions for commercial gain.'*

**County council Director**

72. Market analysis has limited use unless the authority takes a broad view of what constitutes the market. This may include other public sector bodies, voluntary organisations and social enterprises, as well as private firms. For some services, such as refuse collection, it may be that the market appears to be developed and well understood. However, even in this area it is necessary to talk to potential partners to find out what sort of additional benefits might be derived in, for example, delivering recycling targets or helping with educational campaigns.

73. In other cases it will be worth investigating the possibility of encouraging new supplier groups to form. The option of working with other local authorities should also be considered, whether as partners in joint procurements or (subject to the government putting into effect its proposals to remove some of the restrictions on inter-authority trading) as direct suppliers. An example of joint working is given in **CASE STUDY 3**. Potential partners may also include organisations that do not see themselves as operating in a market at all, such as voluntary or community groups.
74. Consultation processes range from the small trade advertisement at one end of the spectrum to major 'open house' discussions with a range of potential suppliers over weeks or months at the other. While the method needs to be robust enough to unearth the realistic options, it must also be appropriate to the service concerned. (**EXHIBIT 7**).

### CASE STUDY 3 A partnership for procurement

The Welland Partnership comprises five rural authorities in the East Midlands: East Northamptonshire Council, Harborough District Council, Melton Borough Council, Rutland County Council and South Kesteven District Council. It was formed in February 2000 in response to the particular difficulties faced by some smaller authorities, including limited interest from suppliers and lack of the internal capacity to advise on and manage competitive processes.

Since its formation, the partnership has built a range of internal and external working arrangements including: inter-authority working groups, shared services posts, commencement of joint procurement and establishing a national and regional profile.

Some of the specific working initiatives in place are:

- senior councillors and chief executives from all the partner authorities meet every three months to review strategy and progress;
- staff work together in networking groups to share best practice and benchmarking information and to develop joint working;
- external consultants are developing a shared model for identifying and delivering new service delivery options across the region;
- successful joint bids have been prepared for regeneration and IT funding; and
- joint links are being forged with the voluntary sector and business community.

All five authorities are committed to integrating their electronic service delivery strategies in order to meet the needs of their communities and the demands of business. This includes investigating joint approaches to customer service through a Welland contact centre.

The housing officers project group has developed a shared housing strategy which includes:

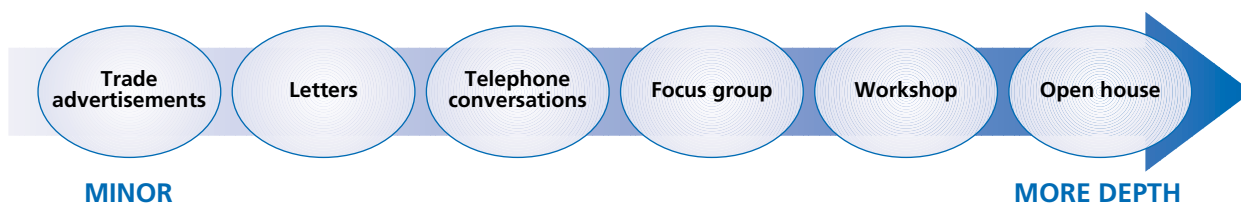
- the development of shared skills for recruitment and training of staff;
- increased choice in the letting of social housing across the partnership area; and
- a facility for council tenants to pay rent at any of the council offices.

Other examples of effective joint working include jointly resourcing a legal officer, achieving a reduced rate for printing plans through a joint approach to a printing firm, and joint production of pre-application planning permission guidance.

*Source: Audit Commission Inspection Service and officer interview*

## EXHIBIT 7 The spectrum of consultation

The method must be appropriate to the service concerned.



Source: Audit Commission

*'We developed a dialogue phase that provided open access for two months to shortlisted firms. The Council assigned three people, one to each bidder: their job was to facilitate access – it was a very helpful part of the procurement process in terms of fostering mutual understanding.'*

**County council partnership project manager**

75. If properly conducted, market analysis should give a clear picture of a number of different ways of meeting the procurement objectives. From here, the authority can move on to compare the different features of the services available, and so begin to consider what the terms of the contract should be.

### SETTING THE BROAD TERMS OF THE CONTRACT

76. At this stage of the procurement process it is still too early to draft an outline contract or service agreement, but two key aspects must be considered: the range of services to be covered by the contract and how long a period it should cover.
77. Market analysis can often reveal that there are significant advantages in packaging a number of different services together under the same contract. This may offer cost savings, and may also enable the contractor to deliver related services in a way that better meets the needs of the service recipient. But there are risks: overall performance is more difficult to monitor and measure, and underperformance on one aspect of the contract can have a knock-on effect on other aspects. It is vital, therefore, that the authority should have a clear view throughout the design stage of the outcomes that are sought from each service. It can then look at whether the proposed package is the best means of procuring each of the services required. The key to this process is the ability to assess the risks of packaging services together and to understand to what extent, and in what ways, those risks can be managed.
78. Risks also vary according to the length of the contract. Longer contracts give certainty of supply, while, from the supplier's point of view, the certainty of demand over an extended period may be attractive. But risk increases in two ways. First, the authority's needs may change, and it may find itself locked in to the purchase of a service that no longer meets its needs – an arrangement from which it may have to pay to extricate itself. Second, the supplier may come to look differently at the provision of the service, or at certain aspects of it, and be less willing to perform anything more than its minimum obligations.

79. The first of these risks can, in some cases, be mitigated by more flexible contract terms, but where unexpected changes are required each party must rely on the continued goodwill of the other. In a fast-changing commercial world, partners' strategies, personnel and ownership can change radically even over a five-year period. It is necessary, therefore, to ensure that long-term contracts incorporate both procedures by which changes can be agreed and mechanisms (including open-book accounting) to enable their impact to be monitored.

*'The main driver for us is to improve the services we run within the budget we have and we do this by using the principles of best value. We have become less prescriptive about how reviews are conducted, as long as they do deliver a fundamental challenge to the service, indeed some of the improvements, including those relating to partnering and other alternative delivery mechanisms, take place outside the formal review programme.'*

**Metropolitan council Head of Policy**

## CHOOSING INTERNAL OR EXTERNAL PROVISION

80. The so-called 'make or buy' decision – whether to deliver a service using in-house resources or to look outside – is critical to the procurement process, and the consequences of doing this well or badly can be far-reaching. The decision does not require detailed information about the way in which individual contractors – internal or external – might deliver a specified service. However, it does require the authority to have defined the product, to have gained some understanding of the market and to have formed a view of the risks attached to different procurement approaches.
81. In reality there are five possible outcomes:
- full outsourcing;
  - in-house provision;
  - a mixed market;
  - partnership, that is, outsourcing, but retaining a strong influence on how the product is delivered; and
  - postponing the decision and undertaking a market test.
82. Which of these options is chosen depends on two main factors:
- the need for investment, whether in equipment or in specialist skills, in relation to the size of the contract; and
  - the degree of uncertainty about the nature of the services that the authority might require in future.

In addition, there are other factors to be considered in particular circumstances. The remainder of this section sets out some possible criteria for choosing between the different options for supply.

## Outsourcing

83. There are some circumstances in which it will almost always be most appropriate to outsource. Typically, these will be cases in which the product specification is clear and unlikely to change, and where, in addition, one of the following conditions applies:
- if a service has an overwhelming need for capital investment (for example in ICT, vehicles or plant) and there is little prospect of public resources becoming available to meet this;
  - if economies of scale can be achieved by contractors providing similar services to a range of customers and such economies are not available to the authority by other means, such as regional collaboration;
  - if transferring the management of certain services (particularly backroom or support services) would enable the authority to redirect resources to its chosen priority or core functions;
  - if there is a need for specialist managerial, technical or professional capacity that the authority could not provide itself, or that would take too long to develop internally; or
  - if the volume of service to be procured in the future is unpredictable, and an outsourced supply that is not wholly dependent on the authority will provide more flexibility.

*'We wanted to modernise support services. Traditionally we hadn't invested in support services because resources are generally targeted to frontline. We also wanted to make services more customer focused, improve accommodation and improve customer access.'*

### Project manager for public/private partnerships (PPP)

84. While outsourcing is normally undertaken directly by the authority, there are cases in which buying power can be considerably increased, and transaction costs minimised, through a consortium approach. Purchasing consortia undertake procurement on behalf of their members, who share the benefits that result from the greater leverage. Authorities that use purchasing consortia need to bear in mind, however, that they still have a duty to secure best value and that this duty is not transferred when the operational responsibility for procurement is placed in the hands of a consortium.

## In-house provision

85. Where the authority requires maximum flexibility in the type of service that is delivered (and not just in the volume of service) and where none of the above conditions is fulfilled, it may be more appropriate to source the service in-house. It is notable, however, that an in-house service is no guarantee of service flexibility. In any event, sourcing a service in-house is not the same thing as maintaining the status quo: it will often be appropriate to restructure to enable an in-house provider to deliver the product required.
86. In-house provision will be easiest to justify where an in-house team is already providing a good service (among the top 25 per cent of authorities), and market analysis has not shown any significant benefits to be gained from outsourcing. But it may also be the case that, while a service's performance is only average, there is little or no external competition for that service, and the cost of building up alternative capacity will be greater than the potential benefits of a more diverse market. Where this appears to be the case, it will be

important to look again at the way that the service was designed to ensure that potential suppliers have not been excluded. Consideration of market development at national level is also required in these areas.

87. It will also sometimes be better to avoid outsourcing where an in-house team has been providing a particularly poor service. If staff are to be transferred (whether or not TUPE applies), the service is unlikely to show any immediate improvement. In these circumstances, contractors may charge a risk premium, or demand the lion's share of any gains arising from changes in business processes; the client side is also likely to be weak, at least in the early stages of the contract; and if things go wrong, there may not be the skills to get the service back on track or to bring it back in-house. Failing services should only normally be outsourced, therefore, when the authority is able to make a clean break and where the contractor's ability to deliver is undoubted. In other circumstances it is often better to build the service back up to a reasonable level of performance before looking at any extra benefits an external provider could offer. The authority may well need external help to improve the service or to strengthen the client side in order to achieve this rebuilding.

### A mixed market

88. In some procurements it may be advantageous to use more than one supplier. Where similar services are to be provided and where the volume is sufficient for more than one supplier to obtain a satisfactory return on its investment, a mixed market may be the best way of ensuring that quality is maintained and costs controlled. This will most often be the case where outputs are hard to specify – for example, in a service such as fund management, where providers are required to exercise professional judgement in carrying out their duties under the contract. A mixed market can also be a powerful way to enhance choice for users. And it may be a suitable approach where the services are of a highly specialised nature and it would be difficult to find an alternative supplier if a sole contracted supplier failed to perform (**CASE STUDY 4**).
89. A mixed market may, however, involve significant costs. There are, inevitably, higher costs for the authority in managing a larger number of suppliers. And, depending on the nature of the service, valuable scale economies may be lost that would have been available to a sole supplier. These costs need to be weighed against the potential benefits.

#### CASE STUDY 4 Developing a mixed economy of supply

Leicestershire County Council has developed a mixed economy for its domiciliary care services, including home care and the supply of meals. Its in-house home care service now provides only 25 per cent of the hours required. By introducing a small number of alternative suppliers, the Council has been able to increase the supply of home care, while controlling costs. A larger number of users now receive more than ten hours of home care a week, so more support is being given to very vulnerable people at home. The council is working with its suppliers to pilot new ways of delivering services, with the aim of promoting independence and increasing choice.

*Source: Audit Commission Inspection Service*

## Partnerships

90. Where a procurement demands both a high level of investment and long-term flexibility, the answer may be to procure in partnership. There is, necessarily, an element of partnership working in all procurements: without mutual understanding and a willingness to co-operate, it is unlikely that the quality of the service delivered will ever be any better than the minimum required to comply with the contract. A partner-like relationship is thus the key to continuous improvement. The more complex and high risk the procurement, the greater the need for purchaser and provider to work in this way.
91. But some procurements need to be structured in a way that not only facilitates co-operation, but makes it a fundamental requirement. This need can arise in two different sets of circumstances. First, purchasers may share a common objective; in this case they may set up a partnership as the vehicle for joint delivery of a service. These partnerships are normally between public sector bodies, although they may involve social enterprises; and private firms sometimes also participate in the pursuit of defined social objectives. Guidance on how to manage partnerships of this type was given in the Commission's management paper, *A Fruitful Partnership* (Ref. 14).
92. The second type of partnership structure has developed more recently. This is the so-called 'strategic partnership' or 'co-sourcing arrangement', typically large-scale, long-term and covering a variety of services. A strategic partnership is in effect a hybrid form of procurement, where neither in-house nor outsourced provision on its own would provide the services that are required.
93. The Government has been keen to encourage partnership working of both types, and several pieces of legislation have been put in place to that end. The Health Act 1999 removed some of the restrictions on partnership arrangements between local authorities and NHS bodies. The Local Government (Contracts) Act 1997 aimed to address some concerns about the powers of local authorities that were seen as potential obstacles to the development of public/private partnerships. This Act establishes a strong presumption that where a contract has been self-certified by an authority by means of a specified process, both contract and certificate are lawful. This reduces the risks faced by contractors (and their backers) who enter in good faith into arrangements that are subsequently found to be unlawful.
94. In the wake of the Byatt report, the DTLR has announced details of a two-year research programme on strategic partnering. It assesses a variety of service delivery vehicles that might embrace the principles of partnership, public-private, public-voluntary or public-public, to deliver best value (BOX 3, overleaf). The aim is to learn the lessons of existing arrangements, disseminate practical advice and help authorities to deliver new strategic service delivery partnerships.
95. More recently, the Government has been consulting local authorities and others on how it might make best use of its powers under section 16 of the Local Government Act 1999, and it will shortly be publishing its response to the comments made. The intention is to remove restrictions on the sharing of resources, the development of appropriate partnership structures and the trading of goods and services between authorities where these promote the objectives of best value. The Government is also conducting a review of best value in partnership with local government, trades unions and employer organisations.

### BOX 3 The DTLR research and development programme

Authorities have been invited to put forward partnership proposals in one of three broad 'themes' to become 'pathfinder projects':

- corporate services and e-government;
- transport and environmental services; and
- education, health and social services.

Each project will be assigned a team of full-time and part-time members to provide advice at key points in the process of setting up and managing a partnership.

The Taskforce will help authorities to:

- establish their business needs and scope projects;
- identify, analyse and manage risks;
- decide on appropriate models of partnership; and
- effectively client and manage partnerships.

The Taskforce will also:

- make matches with other prospective authorities for joint approaches;
- provide a link to Whitehall policy departments;
- facilitate research and dialogue with the market;
- help authorities with project management;
- identify, and deal with, common issues that the pathfinders face; and
- assist the authorities to identify any need for further professional advice and support.

Selection of the projects will be based upon:

- the potential of the approach to achieve far-reaching service improvements;
- the commitment of the authority to the project and their capacity to deliver it; and
- the nature of the chosen model and the ease with which this model could be adapted for use by other authorities.

Source: DTLR

## Market testing

96. If, after careful consideration of the market, the authority is not persuaded that one of the four approaches is better than the others, it may make sense to undertake a market test, involving both in-house and external suppliers. Market testing should only be undertaken, however, where it is not possible to choose between internal and external suppliers by any other means. Typically, these circumstances will arise where the investment required to provide a service is small in relation to the size of the contract, and where the product specification is likely to remain unchanged over the contract life.
97. If either of these conditions is not met, the authority should normally choose one of the other options. There is no point in subjecting either external or internal suppliers to a costly tendering process when the outcome is likely to be determined by factors outside the tenderers' control. Auditors will look critically at arrangements that appear to rely too heavily on market testing, while a service that has been market tested without a proper option appraisal will automatically raise doubts in the minds of inspectors as to whether it

has truly been subjected to competition. In reality, external suppliers are often unenthusiastic about taking part in market tests because they incur costs when the authority may have little commitment to the process.

98. **CASE STUDIES 5 and 6 (overleaf)** show how two different authorities approached the appraisal of different supply options. In one case, the outcome was the establishment of a new service delivery vehicle; in the other, different forms of provision were chosen for different aspects of the service. But it is not the outcome of these particular cases that is most important: what matters is the approach that was taken and the open-minded, but systematic, way in which the different options were considered.

### CASE STUDY 5 Whole-service option appraisal

In 1998 Basildon Council decided to investigate alternative ways to deliver the Council's leisure services, including the option of a non-profit-distributing operation (NPDO) in the form of a Leisure Trust. This decision was driven by a strong desire to improve services, combined with the realisation that the Council had limited financial resources to invest.

#### Market consultation

Initial contact with the commercial sector indicated that there would be little interest from the major operators in investing in the comparatively small facilities within Basildon. But it was also evident that a number of private sector firms were keen to compete with NPDOs and had begun to change their operations from simple operating agreements to newer concepts. Accordingly, Basildon decided to carry out an extensive consultation with the private sector in order to investigate other options.

As a starting point, an open day for private contractors was set up in order to determine the level of interest and the ability of private sector companies to work with Basildon Council to deliver local leisure services. It was made explicit that this was a market analysis exercise, not a formal pre-tender evaluation, and that any private sector solutions would be compared with the NPDO option. Responses confirmed the initial view that there was little interest in investing in the comparatively small facilities within Basildon, although interest in one of the larger sites was indicated. However, at this stage the council did not rule out this option.

#### Option appraisal

As a starting point for the formal process, Basildon drew up a range of broad options, such as restructure of the current in-house service, public/private partnership, sell-off or closure. An assessment was carried out of when it would be appropriate to use which options and the factors that might influence the choice, as well as the potential benefits and risks of each option.

The advantages and disadvantages of certain partnership models, such as PFI and partnership through a company limited by guarantee, were then assessed more thoroughly.

The final evaluation of options was based on assessing four main service delivery options – retaining the service in-house, setting up a leisure trust, inviting competitive tenders and setting up a PFI scheme – according to the extent to which they met the following objectives:

- retaining existing service levels;
- retaining existing resources;
- delivering community plan aims through a greater emphasis on leisure development;
- minimising the financial impact of the building maintenance programme;
- encouraging investment in all facilities;
- supplementing existing management skills with business skills including marketing; and
- maximising external financial assistance from national lottery and other sources.

**(Continued overleaf)**

Each option was also compared against other risk and financial criteria:

- the probability of success;
- capital investment potential;
- longer-term reduction in cost to council;
- annual investment in services;
- set-up costs; and
- implementation period.

At the end of this process the NPDO was the only option that appeared to meet all the Council's requirements. A best value improvement plan which proposed further detailed work was put in place. This included:

- establishing a 'shadow' board of trustees and their submission of an outline business case; and
- detailed evaluation of the case and its impact on council budgets.

The improvements that the Council expects to see are clearly linked to community aims and the savings that have been identified will be available to re-invest in the service.

*Source: Audit Commission Inspection Service and officer interview*

## CASE STUDY 6 Matching supply options to service needs

Over recent years Barnsley has demonstrated its clear willingness to use the private, and other, sectors in a whole range of services. The overall procurement philosophy of the Council is based around an open-minded, pragmatic approach to service delivery options.

The best value review of Tidy Barnsley started in 1999 with an overall vision of providing 'litter, debris and detritus free roads and pavements along with tidy grassed areas and hedges with all trees and shrubs pruned'. The review was 'about not just providing an effective and efficient service, but also an integrated one'. The review looked at the Council's role in removing litter, and incorporated education and enforcement as additional means of achieving a Tidy Barnsley.

In deciding how to deliver this service in the future, a range of options were considered, including keeping the educational aspects of Tidy Barnsley within the Council and the market testing of enforcement activities.

A number of criteria for assessing the options were developed. These covered issues such as:

- delivering on sustainable development objectives;
- meeting public aspirations;
- meeting legislative standards;
- maximising opportunities for partnerships, access to funds and service integration;
- risk;
- ease of transfer; and
- continuous improvement.

The options were scored against the criteria by a panel, whose findings were then agreed by an independent strategic review group.

The Council finally chose a mix of procurement options, including maintaining in-house provision in some areas, and developing a trust or partnership to deliver an educational programme. The decision was commended by the Audit Commission Inspection Service, which was satisfied that the Council had chosen 'the most suitable competitive options for the different parts of the service'.

*Source: Audit Commission Inspection Service and officer interview*

## CHECKLIST 2 Procurement design

- Is the council clear about what service it is aiming to procure?
- Has it been open-minded in considering what needs the service must meet and how it contributes to the authority's strategic aims?
- Has an objective and wide-ranging analysis of the market been undertaken?
- Are services packaged in such a way as to meet the authority's objectives for all its services?
- Is the contract length appropriate?
- Has the council undertaken a systematic assessment of internal and external sourcing options, including a risk assessment?
- If a partnership route is being taken, have the costs and benefits of this approach been realistically assessed? Are there adequate arrangements to ensure accountability?

## TENDERING AND CONTRACTING

99. Local authorities have considerable experience of tendering and contracting under CCT. The lessons learned from that system will continue to be useful in the new world of procurement under best value. It will be particularly important to hold on to well-established principles as procurement becomes more wide-ranging and more risky: e-procurement and the development of long-term, flexible contracts both introduce new uncertainties that councils will need to manage. The Commission published relevant guidance on good practice in its 1990s reports *Realising the Benefits of Competition* and *Behind Closed Doors* (Refs. 15 and 16). Specific guidance on the management of PFI procurement was given in the recent management paper *Building for the Future* (Ref. 13).
100. The first prerequisite of successful tendering and contracting is clear communication with potential tenderers. Some external suppliers (but probably not all) will already have been consulted at the design stage. If the decision has been taken to put the contract out to tender, it is important to continue to keep all potential tenderers informed of the council's intentions, so as to secure the best possible bids.
101. Secondly, it is important that the proper procedures are followed. If the foundations for procurement are in place, the authority will have up-to-date standing orders, together with lists of approved contractors, tender appraisal regulations and delegation schemes. But it is also important that the exercise be properly managed – in the case of major procurements, through the use of risk management and project management methodologies, that concentrate minds on the need for an outcome focus and systematic planning. Project plans should be flexible enough to allow for change – some complex procurements may proceed to a late stage before it becomes clear whether the authority can achieve the benefits it seeks.
102. The third requirement is that tendering and contracting comply with legislation and statutory guidance. DETR Circular 16/97 and its Welsh Office equivalent Circular 62/97, which anticipated best value, set out five principles that authorities should observe to avoid charges of anti-competitive behaviour (Ref. 17). These are:
- ensuring that the competition process is undertaken, and is seen to be undertaken, in an open and transparent manner;

- consulting service users, and potential service providers, on the level and standard of services to be provided;
  - securing services that are economic, effective, and efficient, in which considerations of price and quality are properly balanced;
  - seeing that all competing bids are objectively evaluated; and
  - acting fairly between potential contractors to ensure that tendering practice does not advantage any one potential supplier or suppliers.
- 103.** Circular 16/97 also states that the guidance provided is not of itself comprehensive, and reminds local authorities that they ‘should consider all aspects of conduct whether covered by the guidance or not, to avoid anti-competitive conduct’. It makes clear that, despite the abolition of CCT, authorities are still subject to a general duty in public law to secure value for money (the fiduciary duty that they owe to the local electorate) and to the tendering requirements of the EU procurement regime.
- 104.** Fiduciary duty needs to be considered particularly carefully when the procurement is through a partnership or consortium. A local authority remains statutorily responsible for the performance of its functions, and does not discharge this responsibility by transferring it to a third party. It is essential, therefore, that proper arrangements should be put in place to ensure that partnerships and consortia are fully accountable.
- 105.** The requirements of the EU procurement regime need to be considered particularly carefully in the case of large procurements and strategic partnerships, where a negotiated tendering procedure may appear to be attractive. The circumstances in which the negotiated procedure may be used are very strictly defined, and, while there is a proposal to replace it with a procedure based on ‘competitive dialogue’, this has yet to be agreed.
- 106.** In addition to all this, TUPE and other workforce considerations need to be taken into account. The presumption should be that TUPE will apply where a public service is transferred from one supplier to another. But before entering into a contract authorities will need to obtain proper advice on workforce issues. The Government has also reviewed guidance covering the consideration of workforce issues in the tender evaluation process.

### CHECKLIST 3 Tendering and contracting

- Has the council effectively communicated its intention to seek tenders?
- Are major procurements effectively project-managed?
- Do all those concerned have an understanding of, and do they comply with, competition legislation?
- Have workforce considerations been taken into account?

## CONTINUOUS IMPROVEMENT

107. Best value should mean that an authority's requirements change as new community needs are identified and as new partnerships with different organisations evolve. Hence, contracts should require both parties to seek continuous improvement, in terms of better quality, innovation, cost reduction, flexibility and integration of the services covered by the contract with the wider pattern of service delivery by the council. Open and active quality assurance mechanisms are also essential. Two examples of authorities that have actively encouraged continuous improvement are given in **CASE STUDIES 7 and 8 (overleaf)**.

### CASE STUDY 7 Encouraging continuous improvement

In June 2001 Blackburn with Darwen Council signed a 15-year contract with Capita to provide a range of services, including personnel, payroll, IT, architecture, engineering and revenues and benefits.

In order to ensure that the Council maintained a reasonable level of influence over the partnership, it secured equal representation on the partnership board and the chairperson's role for board meetings. The board is responsible for agreeing contractual changes and is the final arbiter if disputes should arise.

A 15-year contract could be perceived as inhibiting the promotion of competition. Blackburn has, however, sought to promote competition by ensuring that the partnership will be reviewed by an independent body as part of the next best value review within the next five years. Both parties have the option to withdraw if the partnership is failing to deliver.

The Council is also promoting continuous improvement through the development of an incentive-based payment structure. This is based on the achievement of key targets in two areas:

- corporate objectives (such as the creation of new local jobs and the achievement of diversity targets in recruitment within specific timescales); and
- service-specific performance indicators.

In addition, the contract provides for investment in new technology, such as document image processing for revenues and benefits, a new payroll system and the introduction of a customer relationship management system.

The council has also negotiated an income share from any new business that the partnership may acquire.

*Source: Audit Commission Inspection Service and officer interview*

## CASE STUDY 8 Encouraging continuous improvement

South Gloucestershire Council has put in place a number of measures relating to its integrated waste management service contract to encourage continuous improvement.

### Encouraging good performance

The main (unitary) payment provides financial incentives to increase levels of recycling and home composting.

The contractor retains income from the sales of recyclable materials.

### Discouraging poor performance

Cash deductions are made from the main payment for failure to meet operational performance objectives that are set out in the Service Delivery Plan, based on a points system. The amount of the deduction is linked to:

- the importance of the issue – 42 defined non-compliant incidents (NCIs) vary in importance, but include many related to important customer issues, such as missed refuse collections or late opening of civic amenity sites;
- the number of NCI defaults in a month; and
- the length of time for which a serious default has continued.

### Sharing efficiency gains with the Council

If the contractor's performance exceeds the agreed maximum target for recovery:

- the council receives a 50 per cent share of the landfill tax saving once the actual percentage of recovered waste exceeds 40 per cent; and
- if the contractor generates profits above an agreed level, the council is entitled to share a proportion of these.

The key outputs are subject to review every five years. The use of these outputs as the basis for encouraging good performance by the contractor will drive continuous improvement over the 25-year contract period. However, a 'set maximum' target and efficiency saving mechanism mean that the Council limits its contractual payments to what it can afford.

*Source: Audit Commission Inspection Service and officer interview*

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108. Problems can arise where adversarial relationships are allowed to develop between client and contractor. Inspectors have been faced with situations in which they are asked to referee – sometimes where there has been underperformance on both sides. In these circumstances the focus must clearly be on the performance of the authority, which is ultimately responsible for the quality of the services that are provided by third parties.
  109. Inspectors will, however, sometimes need to criticise contractor performance. This is a sensitive issue – the contractor may be operating in a highly competitive or expanding market, and may understandably be conscious of the possible impact of criticism on its commercial reputation. But the inspection focus will always be on giving honest opinions that aim to lead to service improvement.
  110. Continuous improvement makes considerable demands on the client side. If it is difficult for clients to force contractors who underperform or fail to improve or to respond to client innovations, it is equally hard for contractors to deliver and improve where the client side lacks the necessary skills and commitment.
  111. A strong client side depends on a sound framework of internal controls. CCT required authorities to maintain trading accounts for their in-house providers, and also resulted in most authorities expanding their procurement procedures to take account of all the

relevant contract legislation governing the procurement of services. There is no longer any statutory requirement for authorities to maintain trading accounts for all the former CCT areas. Nevertheless, where services are managed as trading operations, the Best Value Accounting Code of Practice requires trading accounts to be maintained. And as best value reviews increasingly define levels of price and quality, more and more in-house services will need to provide evidence of good management accounting in order to demonstrate that they meet or surpass those service levels. The Commission has published guidance on financial management for in-house trading units in *Getting the Groundwork Right* (Ref. 18).

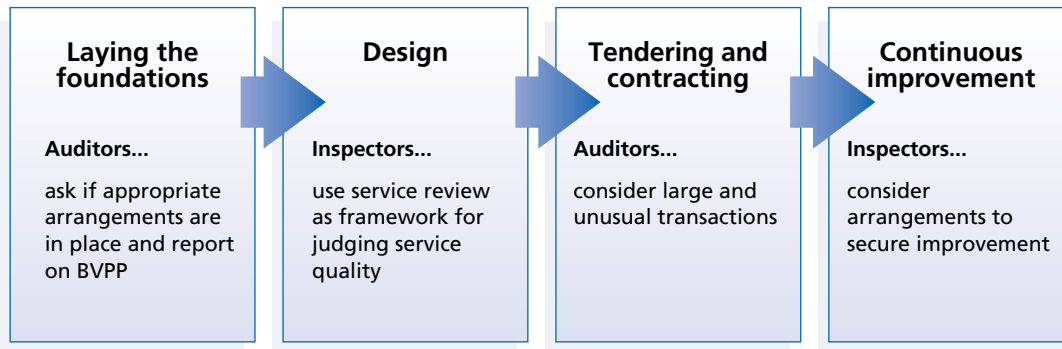
112. Continuous improvement also requires a system of rewards and incentives which link to the council's objectives for the service. These should also integrate the performance indicators that are relevant to the service. The specification should set stretching targets for each of the indicators. Incentives should be structured so that the provider shares in the benefits of service improvement and efficiency gains.

#### CHECKLIST 4 Securing continuous improvement

- Has the council set up an adequately-resourced and capable client side?
- Is contract performance monitored and does this monitoring lead to action?
- In the case of a medium- or long-term procurement, does the contract provide opportunities for change (and, if necessary, exit) and incentives for improvement?
- Do the rewards and incentives support the achievement of the objectives of the authority?

## AUDIT AND INSPECTION

113. The Byatt report drew attention to the part that audit and inspection could play in bringing about improvements in local government procurement practice (Ref. 8). The report called on the Commission to clarify the roles of auditors and inspectors, to guide and train them to deliver effective scrutiny in a mixed economy of service provision, to continue to develop their risk assessment skills and to co-ordinate their activities locally. In its evidence to the task force and in its response to the report, the Commission undertook to produce, and make public, new advice to auditors and inspectors, to help to guide them in their respective roles in relation to procurement. This advice is now available on the Commission's website ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)).
114. Up to now, auditors and inspectors have played distinct, but complementary, roles in relation to procurement. Auditors have been concerned to see that appropriate procurement arrangements are in place at each authority, while inspectors have looked for evidence from the procurement process to judge the quality of a service and whether it is likely to improve. In consequence, they have tended to focus on different stages of the procurement process (EXHIBIT 8, overleaf).

**EXHIBIT 8 Auditors' and inspectors' involvement with the procurement process**


Source: Auditors' reports and Audit Commission Inspection Service

- 115.** Auditors' main concern has been with the foundations – the arrangements that an authority has put in place to ensure good practice. They have reported on some aspects of these foundations in the context of the BVPP. A secondary role for the auditor has been to look at tendering and contracting processes, particularly in relation to large and unusual transactions, where there is a higher risk of potential illegality.
- 116.** Hitherto, inspectors have become involved only towards the end of the design stage – generally, where a service review has been used as the vehicle for service design. From here, they have been able to challenge the review and look back at elements of the foundations (particularly the governance arrangements) in order to inform their judgements on service quality. To decide whether or not a service is likely to improve, inspectors consider the arrangements in place to secure continuous improvement, but they have generally not concerned themselves with implementation.
- 117.** These arrangements are, however, set to change. In *Changing Gear*, the Commission described its plans to integrate audit and inspection work and described some ways in which inspection might provide more support for the scoping and conduct of reviews (Ref. 1). Subsequently, the white paper *Strong Local Leadership – Quality Public Services*, has set out proposals for comprehensive performance assessments and a differentiated regulatory system. These build on the way forward described in *Changing Gear* (Ref. 10).
- 118.** Some authorities already seek their auditors' advice at an early stage of any significant procurement. In future, auditors and inspectors will be more closely involved throughout the procurement process – and will be asking many of the questions posed in this paper.

## 4. CONCLUSION

- 119.** Successful procurement is critical to the achievement of best value. The two are inseparable: indeed, some would say that they are one and the same thing.

*'Good procurement practice...is an integral part of your performance management, it links community leadership and planning with delivery, it is best value. It is not merely another area for consideration. It is at the heart of our role in providing services to citizens.'*

**Nick Raynsford, Minister for Local Government and the Regions**

- 120.** Local authorities that have focused on good procurement practice expect significant benefits to flow from procurement. The four benefits most frequently cited are:

- an increase in investment;
- cost reduction;
- a change in organisational culture; and
- a clearer focus on service objectives.

- 121.** While investment is normally dependent on outsourcing (and is often a reason for outsourcing a particular service) the other three benefits can be achieved even if the decision is to retain a service in-house. Culture change, in particular, can often be accelerated by a willingness to explore all avenues for improving services. And thinking about new methods of delivery has raised the status of several services formerly thought to be of low importance and re-energised their management.

*'Initially officers and members had problems getting their heads round best value. They are now more well disposed towards the regime and have adopted a mixed economy approach, which focuses on the Council's redesigned role being one that commissions services rather than directly provides them... The council is now pragmatic rather than dogmatic and competition is becoming increasingly important to the corporate vision.'*

**Metropolitan council Director**

*'Traditionally the Council always had a strong attachment to keeping services in-house and in the early days of best value the Council's starting point was that in-house provision is best. We are now moving away from that view... Over the last four years the management of the Council has changed and a new more open-minded approach has been cascading down through the organisation.'*

**County council Resources Director**

122. Both auditors and inspectors are committed to playing a constructive role in helping local authorities to manage procurement more effectively. They will continue to encourage innovative approaches, while helping authorities to find their way through complex regulations.
123. At the same time, the Commission's research work will continue to bring together the results of the audits of BVPPs and of best value inspections and will feed back lessons and observations. The AC Knowledge series allows the Commission to ensure that good practice is available to authorities as early as possible.
124. Appendix 2 lists a number of other sources that provide guidance on different aspects of procurement. In addition to the publications listed, it is expected that support and advice will be available from the DTLR Taskforce for authorities that are experimenting with new models of strategic service-delivery partnerships. The Improvement and Development Agency (IDeA) has also developed a procurement toolkit (available on its IDeA Knowledge website – [www.idea-knowledge.gov.uk](http://www.idea-knowledge.gov.uk)) with a range of advice, good practice and access to procurement services.
125. Nevertheless the prime responsibility for effective procurement lies with the members and officers of local authorities. The guidance given in this paper should help them not only to get the best from their auditors and inspectors, but also:
  - to use effective procurement approaches to bring about service improvements; and
  - to support the continuous improvement of their own procurement processes.

## APPENDIX 1: ACKNOWLEDGEMENTS AND INFORMATION SOURCES

### THE RESEARCH PROCESS

The paper draws on the experiences of the Commission's auditors and inspectors over the first two years of best value, as well as on the extensive literature dealing with procurement and related issues. It also uses the findings of inspection work more broadly (including joint reviews of social services departments and joint Ofsted/Audit Commission inspections of local education authorities).

A substantial contribution came from KPMG in the form of an analysis of inspection findings based on an assessment of 114 inspection reports, selected to be representative of geography, council type and service area. This assessment was supplemented by follow-up telephone interviews with officers at 25 of the councils concerned and a questionnaire which was completed by the relevant inspectors.

KPMG's findings were shared with an advisory group, the members of which are listed below. Members of the advisory group and other stakeholders, including local authority procurement officers, government departments and representatives of the independent sector, also commented on various drafts of this paper and provided valuable advice, support and insights. The Commission acknowledges with gratitude the assistance it has received. Responsibility for the contents of the paper, however, rests with the Commission alone.

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## APPENDIX 2: FURTHER READING

The following are recent publications, not specifically referred to in the main report, that provide analysis and guidance in the field of procurement that is of particular relevance to local authorities.

Chartered Institute of Public Finance and Accountancy – Competitiveness Joint Committee, *Competitiveness and Competition: An Occasional Paper*, CIPFA-CJC, 2001.

Chartered Institute of Public Finance and Accountancy – Competitiveness Joint Committee, *The CJC Guide to Partnerships and Partnering*, CIPFA-CJC, 2001.

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First published in March 2002 by the Audit Commission for Local Authorities and the National Health Service in England and Wales, 1 Vincent Square, London, SW1P 2PN.

Printed in the UK for the Audit Commission by Holbrookes Printers Ltd, Portsmouth.

ISBN 1 86240 350 3

Front cover picture: Getty Images – Adam Smith.

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